

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
1:24-CV-00017-LCB-JLW**

JOHN DOE 1, a minor, by and through his parent and natural guardian JANE DOE 1; JOHN DOE 2, a minor, by and through his parent and natural guardian JANE DOE 2; JOHN DOE 3, a minor, by and through his parent and natural guardian JANE DOE 3; on behalf of themselves and all others similarly situated

Plaintiffs,

v.

NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY; EDDIE M. BUFFALOE, JR., Secretary of the North Carolina Department of Public Safety, in his official capacity; WILLIAM L. LASSITER, Deputy Secretary of the Division of Juvenile Justice and Delinquency Prevention, in his official capacity; PETER BROWN, Facility Director of the Cabarrus Regional Juvenile Detention Center, in his official capacity,

Defendants.

**EMERGENCY MOTION FOR
STATUS CONFERENCE**

Plaintiffs John Doe 1, John Doe 2, and John Doe 3 (“Plaintiffs”) respectfully submit this Emergency Motion for Status Conference to afford the Parties an immediate conference on an exigent and critical issue: Whether Defendants’ counsel may prevent Plaintiffs’ counsel and Plaintiffs’ experts from interviewing willing juveniles, with consent from a parent, during inspections of Defendants’ facilities scheduled for July 22 and 23,

2024, unless Defendants and their counsel are allowed to be present in the interviews and question the juveniles. Plaintiffs have met and conferred with Defendants and worked diligently to resolve the issue without seeking Court intervention but today have reached an impasse on the issue.

On June 11, 2024, Plaintiffs served upon Defendants Requests for Entry Upon Land For Inspection (the “Inspection Request”), attached here as Exhibit A. The Inspection Request requested that Defendants permit Plaintiffs and their lawyers, consultants, experts, and agent to inspect on July 22, 2024 and July 23, 2024, three juvenile detention centers run by Defendant North Carolina Department of Public Safety: Cabarrus Regional Juvenile Detention Center, Dillion Regional Juvenile Detention Center, and Wake Regional Juvenile Detention Center. The Inspection Request requested, among other things, that Plaintiffs be able to interview juveniles who are being detained at the juvenile detention centers.

Defendants served their Responses to Plaintiffs’ Requests for Entry Upon Land (“Defendants’ Responses”) on July 11, 2024, attached hereto as Exhibit B. Defendants asserted a host of objections to the interview of any juveniles, including that “the Department takes the position that parental consent is required before any such interviews occur.” Plaintiffs’ counsel immediately reached out to Defendants’ counsel on July 12, 2024 to set up a meet and confer to discuss Defendants’ Responses, including their objections to the interviews of juveniles. The parties met and conferred on July 16, 2024, at which time Defendants’ counsel advised that they would discuss with their clients what language they believed would need to be included in a parental consent form. At 6:57 PM

on July 18, 2024, Defendants' counsel circulated a parental consent form that "DPS will insist upon being executed prior to your interviewing any juveniles next week during the inspections." That parental consent is attached hereto as Exhibit C. Defendants' purported parental consent includes a paragraph requiring the following: "Lawyers for the North Carolina Department of Public Safety in *Doe v. NCDPS* will also be present during the questioning. If you consent to Plaintiffs' lawyers or their agents' questioning, the child may also be questioned by lawyers from the North Carolina Department of Justice, who represent the Department of Public Safety in *Doe v. NCDPS*."

Plaintiffs' counsel advised Defendants that the inclusion of that paragraph was unacceptable and that Plaintiffs have a right to interview witnesses without the presence of Defendants or their counsel or agents. Defendants disagreed and advised today that they were unwilling to allow Plaintiffs to interview any juveniles who are not named plaintiffs in the three detention centers during the inspections without the presence of Defendants and/or their counsel.

Because Plaintiffs' first inspection of the juvenile detention centers is scheduled to begin at 9:00 am on Monday, July 22, 2024, this is an urgent issue that requires the Court's immediate attention. The presence of Defendants and their counsel in the interviews will have a chilling effect on the juveniles' ability to speak freely about the conditions of the confinement by the Defendants and will almost certainly prevent the interviews from going forward altogether because parents will be unwilling to sign a consent form that would allow Defendants and their counsel to be present. *See, e.g., U.S. v. Erie County*, No. 09-CV-849S, 2010 WL 986505, at *3 (W.D.N.Y. March 17, 2010) ("An inmate, like any other

non-party witness or potential witness, can be informally interviewed (if willing) by either party. Moreover, requiring that inmates be deposed (or interviewed) in the presence of County attorneys or employees would likely chill their willingness to speak to investigators or to speak candidly. This, of course, defeats the whole purpose of speaking to inmates in the first place.”).

Accordingly, we respectfully request that this Court schedule a status conference for 9:00 AM on July 22, 2024, or sooner.

Dated: July 19, 2024

[signatures on next page]

**NELSON MULLINS RILEY &
SCARBOROUGH LLP**

/s/ Robert L. Lindholm

Robert L. Lindholm (N.C. Bar No. 52800)
301 South College Street
23rd Floor
Charlotte, NC 28202
(704) 417-3000
robert.lindholm@nelsonmullins.com

Donna O. Tillis*
Yasmeen Ebbini*
1320 Main Street, 17th Floor
Columbia, SC 29201
(803) 799-2000
donna.tillis@nelsonmullins.com
yasmeen.ebbini@nelsonmullins.com

Matthew G. Lindenbaum*
One Financial Center, Suite 3500
Boston, MA 02111
(617) 217-4700
matthew.lindenbaum@nelsonmullins.com

COUNCIL FOR CHILDREN'S RIGHTS

Michelle Duprey (N.C. Bar No. 53205)*
601 E. Fifth Street, Suite 510
Charlotte, NC 28202
(704) 943-9642
MDuprey@cfcrights.org

**Special Appearance Pursuant to Local Civil Rule 83.1(d)
Counsel for Plaintiffs*

CERTIFICATE OF SERVICE

I hereby certify that on July 19, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send electronic notification of such filing to all counsel of record.

Dated: July 19, 2024

/s/ Robert L. Lindholm
Robert L. Lindholm
N.C. Bar No. 52800
Nelson Mullins Riley & Scarborough LLP
301 South College Street
23rd Floor
Charlotte, NC 28202
(704) 417-3000
robert.lindholm@nelsonmullins.com